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8 UNITED STATES DISTRICT COURT

9 SOUTHERN DISTRICT OF CALIFORNIA

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11 BEN GILES,) Civil No. 08cv000439 L(RBB)
12 Plaintiff,)
13 v.) CASE MANAGEMENT CONFERENCE
14 JUSTIN PAUL THOMPSON, WATER) ORDER REGULATING DISCOVERY AND
TOYS, INC., ISLAND BOAT) OTHER PRETRIAL PROCEEDINGS
15 RENTALS, KDME, INC., and DOES I)
through L, inclusive,)
16 Defendants.)
17 _____)

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19 Pursuant to rule 16 of the Federal Rules of Civil Procedure, a
20 case management conference was held on July 15, 2008. After
21 consulting with the attorneys of record for the parties and being
22 advised of the status of the case, and good cause appearing,

23 IT IS HEREBY ORDERED:

24 1. All discovery shall be completed by all parties on or
25 before February 16, 2009. All motions for discovery shall be filed
no later than thirty (30) days following the date upon which the
27 event giving rise to the discovery dispute occurred. For oral
discovery, the event giving rise to the discovery dispute is the

1 completion of the transcript of the affected portion of the
2 deposition. For written discovery, the event giving rise to the
3 discovery dispute is the service of the response. All
4 interrogatories and document production requests must be served by
5 December 15, 2008.

6 2. Plaintiff(s) shall serve on all other parties a list of
7 expert witnesses whom Plaintiff(s) expect(s) to call at trial by
8 December 15, 2008. Defendant(s) shall serve on Plaintiff(s) a list
9 of expert witnesses Defendant(s) expect(s) to call at trial by
10 January 12, 2009. Each party may supplement its designation in
11 response to the other party's designation no later than January 26,
12 2009. The parties must identify any person who may be used to
13 present evidence pursuant to Rules 702, 703 or 705 of the Federal
14 Rules of Evidence. This requirement is not limited to retained
15 experts. The designation(s) shall comply with rule 26(a)(2) of the
16 Federal Rules of Civil Procedure and be accompanied by a written
17 report prepared and signed by each witness, including in-house or
18 other witnesses providing expert testimony. The failure to fully
19 comply with these requirements may result in the exclusion of
20 expert testimony. A written report is not required from a witness
21 giving testimony as a percipient expert.

22 3. Any motion to join other parties, to amend the pleadings
23 or to file additional pleadings shall be filed and heard on or
24 before November 17, 2008.

25 4. All other pretrial motions must be filed on or before
26 March 16, 2009. Please be advised that counsel for the moving
27 party must obtain a motion hearing date from the law clerk of the
28 judge who will hear the motion. **Be further advised that the period**

1 of time between the date you request a motion date and the hearing
2 date may vary from one district judge to another. Please plan
3 accordingly. For example, you should contact the judge's law clerk
4 in advance of the motion cutoff to calendar the motion. Failure to
5 timely request a motion date may result in the motion not being
6 heard.

7 Questions regarding this case should be directed to the
8 judge's law clerk. The Court draws the parties' attention to Local
9 Rule 7.1(e)(4) which requires that the parties allot additional
10 time for service of motion papers by mail. Papers not complying
11 with this rule shall not be accepted for filing.

12 Briefs or memoranda in support of or in opposition to any
13 pending motion shall not exceed twenty-five (25) pages in length
14 without leave of the judge who will hear the motion. No reply
15 memorandum shall exceed ten (10) pages without leave of the judge
16 who will hear the motion.

17 Pursuant to Civil Local Rule 7.1(f)(3)(c), if an opposing
18 party fails to file opposition papers in the time and manner
19 required by Civil Local 7.1(e)(2), that failure may constitute a
20 consent to the granting of a motion or other request for ruling by
21 the court. Accordingly, all parties are ordered to abide by the
22 terms of Local Rule 7.1(e)(2) or otherwise face the prospect of any
23 pretrial motion being granted as an unopposed motion pursuant to
24 Civil Local Rule 7.1(f)(3)(c).

25 Should either party choose to file or oppose a motion for
26 summary judgment or partial summary judgment, no Separate Statement
27 of Disputed or Undisputed Facts is required.

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1 5. Further settlement conferences shall be held at
2 appropriate intervals during the course of the litigation in the
3 chambers of Judge Ruben B. Brooks. A further settlement conference
4 shall be held on November 3, 2008, at 8:30 a.m. A mandatory
5 settlement conference date will be set at one of the scheduled
6 settlement conferences.

7 All parties, claims adjusters for insured Defendants and non-
8 lawyer representatives with complete authority to enter into a
9 binding settlement, as well as the principal attorneys responsible
10 for the litigation, must be present and legally and factually
11 prepared to discuss and resolve the case at the mandatory
12 settlement conference and at all settlement conferences. Retained
13 outside corporate counsel shall not appear on behalf of a
14 corporation as the party representative who has the authority to
15 negotiate and enter into a settlement. Failure to attend or obtain
16 proper excuse will be considered grounds for sanctions.

17 If Plaintiff is incarcerated in a penal institution or other
18 facility, the Plaintiff's presence is not required at conferences
19 before Judge Brooks, and the Plaintiff may participate by
20 telephone. In that case, defense counsel is to coordinate the
21 Plaintiff's appearance by telephone.

22 **Confidential written settlement statements for the mandatory**
23 **settlement conference shall be lodged directly in the chambers of**
24 **Judge Brooks no later than five court days before the mandatory**
25 **settlement conference.** The statements need not be filed with the
26 Clerk of the Court or served on opposing counsel. The statements
27 will not become part of the court file and will be returned at the
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1 end of the conference upon request. Written statements may be
2 lodged with Judge Brooks either by mail or in person.

3 Any statement submitted should avoid arguing the case.
4 Instead, the statement should include a neutral factual statement
5 of the case, identify controlling legal issues, and concisely set
6 out issues of liability and damages, including any settlement
7 demands and offers to date and address special and general damages
8 where applicable.

9 If appropriate, the Court will consider the use of other
10 alternative dispute resolution techniques.

11 6. Despite the requirements of Civil Local Rule 16.1(f),
12 neither party is required to file Memoranda of Contentions of Fact
13 and Law at any time. The parties shall instead focus their efforts
14 on complying with their pretrial disclosure requirements under rule
15 26(a)(3) of the Federal Rules of Civil Procedure by June 29, 2009,
16 and drafting and submitting a proposed pretrial order by the time
17 and date specified by Local Rule 16.1(f)(6).

18 7. Counsel shall confer and take the action required by
19 Local Rule 16.1(f)(4) on or before July 6, 2009. A personal
20 meeting between an incarcerated Plaintiff, acting in pro per, and
21 defense counsel is not required.

22 At this meeting, counsel shall discuss and attempt to enter
23 into stipulations and agreements resulting in simplification of the
24 triable issues. Counsel shall exchange copies and/or display all
25 exhibits other than those to be used for impeachment, lists of
26 witnesses and their addresses including experts who will be called
27 to testify and written contentions of applicable facts and law.
28 The exhibits shall be prepared in accordance with Local Rule

1 16.1(f)(2)(c). Counsel shall cooperate in the preparation of the
2 proposed final pretrial conference order.

3 8. The proposed final pretrial conference order, including
4 objections to any party's Fed. R. Civ. P. 26(a)(3) pretrial
5 disclosures, shall be prepared, served and lodged with the Clerk of
6 the Court on or before July 8, 2009, and shall be in the form
7 prescribed in and in compliance with Local Rule 16.1(f)(6).
8 Counsel shall also bring a court copy of the pretrial order to the
9 pretrial conference.

10 9. The final pretrial conference shall be held before the
11 Honorable M. James Lorenz, United States District Judge, on July
12 13, 2009, at 11:00 a.m.

13 10. The dates and times set forth herein will not be modified
14 except for good cause shown.

15 11. Plaintiff's(s') counsel shall serve a copy of this order
16 on all parties that enter this case hereafter.

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18 Dated: July 15, 2008


RUBEN B. BROOKS
United States Magistrate Judge

20 cc: All Parties of Record
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1 **CASE RESOLUTION GUIDELINES**

2 **Attendance**

3 All parties and claims adjusters for insured Defendants and
4 representatives with complete authority to enter into a binding
5 settlement, as well as the principal attorney(s) responsible for
6 the litigation, must be present and legally and factually prepared
7 to discuss and resolve the case. Failure to attend or obtain
proper excuse will be considered grounds for sanctions.

8 **Case Resolution Conference Briefs**

9 Written statements, when specifically requested, shall be
10 lodged in the chambers of Judge Brooks no later than five court
days before the scheduled conference. The statements will not
become part of the court file. Written statements may be submitted
on a confidential basis and lodged with Judge Brooks either by mail
or in person.

11 Any statement submitted should avoid arguing the case.
12 Instead the statement should include a neutral factual statement of
the case and concisely set out issues of liability and damages,
including any settlement demands and offers to date, and address
special and general damages where applicable.

13 If appropriate, the court will consider the use of other
14 alternative dispute resolution techniques.

15 If you have any further questions, please feel free to contact
my research attorney, at (619) 557-3404.